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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,272	09/13/2003	Wolfgang Uwe Spies	BM-73DIV	7609
7590 03/16/2004			EXAMINER	
Friedrich Kueffner Suite 910 317 Madison Avenue New York, NY 10017			SCOTT, JAMES R	
			ART UNIT	PAPER NUMBER
			2832	

DATE MAILED: 03/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/661,272

Applicant(s)

SPIES, WOLFGANG UWE

Examiner

James R Scott

Art Unit

2832

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 9/13/2003 AND 12/22/2003.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 13 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☒ Certified copies of the priority documents have been received in Application No. 10/009,033.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Priority***

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 10090333, filed on 10/8/2001.

### ***Specification***

The disclosure is objected to because of the following informalities: On page 1 of the specification update the status of the patent application to read as -- now U.S. Patent No. 6,696,652 B1--. Any other errors applicant may become aware of should be corrected.

Appropriate correction is required.

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "45" and "455" have both been used to designate the wall thickness in the specification and the drawings respectively.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Contact maker should be referred to as an actuator. The claim does not clearly describe how the switch per se, activates a drive which opens and closes the movable vehicle part.

The claim does not clearly state if the car body constitutes the primary part, which contains a portion for activating the switch.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by the United Kingdom patent document to Jones. Note the abstract and figures 1 and 2a, 2b.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by WIPO International Publication (473) to Textron Automotive Company. Note the abstract and figures 1-5.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by the German patent document to Bock. Note the abstract and figures 1,3 and column 1, lines 1-50.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Filion et al. Note the abstract and the flexible switching regions in figures 1,2,3,4 and 5.

Cited References

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Spies constitutes the patent of the parent application of which this pending application is a divisional thereof.

Hawkins, Chebowski, Lee, Chan and Dirmeyer et al constitute prior art disclosing flexible switching areas adjacent to rigid structures and these patent documents have also been considered previously in the examination of the parent application.

**Summary**

Claim 1 is rejected.

The remaining claims in the application have been cancelled.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R Scott who can be reached at **(571) 272-1999** after 2/03/2004.

The examiner can normally be reached on weekdays from 1 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin Enad, can be reached at **(571) 272-1990** after 2/03/2004.

**Effective immediately, all patent application related correspondence transmitted by FAX to the USPTO must be directed to the central FAX number (703-872-9306).**

JRScott: jrs

3/07/2004

JR Scott  
J. R. Scott  
Primary Examiner  
G. A. U. 2832